IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

MONDAY, THE 28TH MAY 2007 / 7TH JYAISHTA 1929

WP(C).No. 13923 of 2007(G)

PETITIONER:

V.V. VENUGOPALAN,
CHAIRMAN, MALAPPURAM DISTRICT, TOURISM PROMOTION & DEVELOPMENT CO-OPERATIVE LTD. NO.M.693,
PERINTHALMANNA, PIN-679 322.

BY ADV. SRI.C.E.UNNIKRISHNAN

RESPONDENTS:

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1. JOINT REGISTRAR (GENERAL),
CO-OPERATIVE SOCIETIES, MALAPPURAM.

2. ASSISTANT REGISTRAR (GENERAL) OF
CO-OPERATIVE SOCIETIES, PERINTHALMANNA.

BY GOVT. PLEADER SRI. P.N. SANTHOSH.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 28/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.M.JOSEPH, J.

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WP.(C) No.13923 of 2007

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Dated this the 28th day of May, 2007

JUDGMENT

Petitioner challenges Exts.P2 and P4 and seeks a declaration that the petitioner is not liable to be proceeded under Section 68 of the Act. He also seeks a direction to comply with the statutory provision in Section 65 of the Act before any action pursuant to any such enquiry is taken.

2. The short case of the petitioner is as follows:

Petitioner is the Chairman of the petitioner Society, the objectives of which are to set up Tourism Oriented Projects, commence tourist hotels and restaurants etc. There were some financial difficulties. Ext.P2 is an order by which according to the petitioner, with the intention of wrecking vengeance to the petitioner one Sri.C.P.Premraj, who belongs to the party which was then controlling the department used its influence in the office of the respondents ultimately resulting in initiation of an enquiry vide Ext.P2. It is the case of the petitioner that there is no application of mind in the matter

of initiation of enquiry. According to him the first respondent was not satisfied of a situation where powers under Section 65 could be invoked. It is stated that the enquiry is made flouting all the procedures. Copy of the report was not given. It is the contention of learned counsel for the petitioner Sri. C.E.Unnikrishnan that Section 65 (4) speaks of a situation where enquiry reveals only minor defects, which in the opinion of the Registrar can be remedied by the Society, he has to communicate the result of the enquiry to the Society and direct the Society to take such action. Reference is placed on Rule 66. Petitioner was served with Ext.P4 wherein it was ordered that an enquiry under Section 68(1) of the Act is being initiated against the petitioner for the defects alleged therein.

3. Heard counsel for the petitioner and the learned Government Pleader.

4. As far as the challenge to Ext.P2 is concerned, I am not prepared to accept the same at this stage. I note that Ext.P2 is dated 5.5.2006. The writ petition is filed on 26.4.2007, that is nearly one year after the date of Ext.P2. More importantly developments have

taken place after Ext.P2 apparently as is evident from Ext.P3 and what is more Ext.P4. Petitioner has chosen not to come to court challenging Ext.P2 in time. As far as Ext.P4 is concerned, it is an order under Section 68 of the Act. It is appealable under Section 83(1)(e) of the Act. Appeal lies within a period of sixty days.

In such circumstances repelling the challenge against Ext.P2 and relegating the petitioner to avail the remedy open to the petitioner even now under Section 83(1)(e) of the Act, the writ petition is disposed of.

(K.M. JOSEPH, JUDGE)

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